

29

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.127 of 1995

DATE OF JUDGEMENT: 26/9/6

BETWEEN:

V.SURYA RAO

.. Applicant

and

1. The Officer Commanding,
Andhra Sub Area Signal Company,
Bolarum, Secunderabad-10,

2. The Signal Officer-in-Chief,
Signal Directorate, Army HQs,
New Delhi 110001,

3. The Controller of Defence Accounts (Pensions),
.. Respondents

COUNSEL FOR THE APPLICANT: SHRI S.RAMAKRISHNA RAO

COUNSEL FOR THE RESPONDENTS: SHRI K.BHASKAR RAO, ADDL.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMINISTRATIVE)

JUDGEMENT

... in this OA was recruited as Corps of Signals, Signal Regiment, Jabalpur on 8.7.1945 and discharged from active service. By virtue of his experience in signals and as the applicant did not cross the age of 45 years, he was drafted to work as Civilian Switch Board Operator (CSBO for short) and appointed in the Andhra Sub Area Signal Company, Bolarum, Secunderabad with effect from 1.5.1969. He worked in that capacity till 31.5.1982 when he retired on attaining the age of superannuation.

2. The applicant requested for payment of proportionate pension for the period he worked as CSBO but that was not acceded to inspite of his repeated representations.

3. Aggrieved by the above, he filed this OA under Section 19 of the Administrative Tribunals Act, 1985 praying for a direction to R-1 to release pension due to him for the service rendered by him from 1.7.69 to 31.5.82 with all attendant benefits thereon.

4. The main reason for not granting him the proportionate final settlement is due to the fact that "he could not succeed to a permanent capacity" as averred in the reply. It is further stated in the reply that because of the fact that he was working only on a temporary vacancy as CSBO, he was deprived of the eligibility to pension for the service rendered by him as above. It is also stated in the reply that inspite of the efforts taken by R-1, the request for regularising the services of the applicant and granting him pensionary benefits was turned down by Signals Records.

5. The applicant has put in 13 years of services as CSBO. It appears strange, how an employee with 13 years of service could be kept as temporary without making him permanent. During that period, permanent vacancies should have occurred and against those vacancies, the applicant

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should have been made permanent. In order to ascertain the position, I have asked the learned standing counsel to check up whether any permanent vacancy arose during the period when the applicant was in service as CSBO against which he could have been made permanent. The learned standing counsel handedover to me a brief given to him by the respondents in this connection. From the brief, it is seen that a DPC was held in October 1979 and six persons were recommended for confirmation vide letter No.108/3/A/Sigs dated 25.10.79. In that list, there were six employees whose names were recommended as per their seniority. The applicant's name finds at Sl.(e) i.e., at 5th position in that recommendation. It is further noted in the brief that normally only combatant cadre staff can be posted against these posts. But some of the officials who were released from Signal Corps, presently working as temporary CSBO, and fulfil the requisite condition were considered against these posts as CSBOs instead of Combatants as a measure of resettlement plan of the released Army employees. The recommendations for confirmation out of six employees who were recommended for confirmation in terms of the letter dated 25.10.79 *ibid*, the first 4 CSBOs indicated in that list were made permanent by releasing the Switch Board Operator posts from the combatant cadre. As the applicant was 5th in that list, he could not be confirmed before his retirement as no permanent post was available till then. When 4 posts can be released and 4 CSBOs could be confirmed against those posts as indicated above, it is not clear why 2 more posts

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22

cannot be released to accommodate the applicant and one Shri B.Devadanam who were 5th and 6th respectively in the list dt. 25.10.75 of recommendations for confirmation. Definitely efforts could have been made to confirm these two CSBOs also. Be that as it may, it is also seen from the breief that Shri T.U.Narayanan, CSBO who was in the Civilian SBO post retired from service with effect from 30.6.1981 on medical grounds before the date of retirement of the applicant herein. Though the respondents at Andhra Sub Area requested to consider the applicant and Shri Devadanam for permanency against the vacancies arisen as above in terms of the letter No.112/R/Sigs/Civ/01 dated 7.8.82, the same was turned down by Signal Records on the ground that, "Civilianised posts of CSBOs will be converted into combatant cadre on their place and further they advised that on wasting out of regular establishment the senior most held in lieu of combatant be converted into regular vacancy". In view of the above instructions, it is stated that even against the post vacated by shri T.U.Narayanan, the applicant could not be confirmed. When 4 posts of combatant cadre were authorised to be converted as CSBOs to make permanent four temporary CSBOs as per the list dated 25.10.79, it is beyond any reasoning for refusing to convert the post vacated by Shri T.U.Narayanan when the applicant with 13 years of temporary service is waiting for permanency. The reason given as indicated above does not appear to be satisfactory. When an employee with long years of service is available for confirmation, allotting^{or} the post vacated by Shri T.U.Narayanan to combatant cadre could have waited till the applicant

retires and that permanent post of CSBO is operated for regularising the applicant. In view of the fact that the Army authorities have themselves earlier converted four posts of combatant cadre into permanent CSBO posts, denial of granting permanency to the applicant against the post vacated by Shri T.U.Narayanan is to be considered as a case of discrimination violating Articles 14 and 16 of the Constitution of India. In view of the above, it is necessary that the permanent post of CSBO vacated by Shri T.U.Narayanan is to be treated as having filled by the applicant thereby granting him permanency against that post.

6. Confirmation is now delinked from the availability of permanent post. The applicant having worked for 13 years without any blemish in the post of CSBO cannot be left high and dry without granting him any pensionary benefits after his retirement in 1982. When so much is talked about for granting benefits to the released Army officials, the Army authorities themselves should have taken initiative to grant necessary benefits if the released Army officials worked for a considerable period in the Civilianised posts under them. The case of the applicant who had worked for 13 years as CSBO though in temporary capacity, should be considered for permanency in that post as his services are satisfactory during that period. Leaving him without any pensionary benefits for the period he worked as CSBO is not only harsh but is also against the principles of natural justice.

(34)

6. In view of what is stated above, I am of the opinion that a direction has to be given to consider ~~for~~ confirmation of the applicant against the post of CSBO vacated by Shri T.U.Narayanan with effect from 30.1.1981 and that further pensionary benefits should be granted to the applicant on that basis.

7 In the result, the following direction is given:-

The applicant should be considered for confirmation as CSBO in accordance with rules against the post vacated by Shri T.U.Narayanan with effect from 30.1.1981 and on that basis his pensionary benefits should be arranged with effect from the date of his retirement on superannuation from the post of CSBO.

8. The OA is ordered accordingly. No costs.

UR ~
(R.RANGARAJAN)
MEMBER (ADMN.)

DATED: - - - 1st June, - 1996.

vsn

Arul
11.6.96
Dr. R.

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Copy to:-

1. The Officer Commanding, Andhra Sub Area Signal Company, Belarum, Secunderabad-10.
2. The Signal Officer-in-Chief, Signal Directorate, Army HQrs, New Delhi-001.
3. The Controller of Defence Accounts(Pensions), Allahabad.
4. One copy to Sri. S.Ramakrishna Rao, advocate, CAT, Hyd.
5. One copy to Sri. K.Bhaskara Rao, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

DATED.

24/6/96

~~ORDER~~ JUDGEMENT

M.A. NO/R.A/C.A. No.

IN

C.A. NO.

127/95

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

~~DISPOSED~~ OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDERS AS TO COSTS

* * *

No spare copy

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण/DESPATCH 18 JUN 1996 हैदराबाद न्यायपीठ HYDERABAD BENCH

210